

**REMARKS**

Claims 1-20 are pending in the application.

Claims 1-3, 6-9, 12-14, 16-18 and 20 have been rejected.

Claims 4, 5, 10, 11, 15 and 19 have been objected to.

Claims 1, 7 and 13 have been amended, as set forth herein.

New Claims 21 and 22 have been added.

**I. OBJECTIONS TO CLAIMS 4,5,10,11, 15 AND 19**

Applicant thanks the Examiner for the indication that Claims 4,5,9,10,15 and 19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has not elected to rewrite these claims in independent form, at this time.

**II. REJECTION UNDER 35 U.S.C. § 102**

Claims 1-3, 6-9, 12-14, 16-18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Nita et al. (US 5,951,539). The rejection is respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is

found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Office Action appears to argue that the term “fuse” in its broadest interpretation (referencing one definition in Webster’s Collegiate Dictionary Tenth Edition as “to stitch by applying heat and pressure with or without the use of adhesive”) is disclosed by Nita. Applicant notes that the term “fuse” is also defined in Webster’s as (1) to reduce to a liquid or plastic state by heat; (2) to blend thoroughly by or as if by melting together; (3) to become fluid with heat; and (4) to become blended or joined by or as if by melting together. Applicant respectfully submits that Nita fails to disclose fusing of an inner or outer insulator, as claimed by Applicant. As noted in Applicant’s prior response, Nita discloses:

A shrink wrappable layer of polyethylene tubing is then placed over the tubing and heated so to shrink-wrap the polyethylene and pull the tubing into intimate contact with the reinforcing member (206) winding and perhaps with the inner liner (202). (Emphasis added). Col. 13, lines 9-13.

This passage evidencing that Nita fails to disclose fusing the inner insulator and outer insulator is further buttressed by the following passage in Nita:

As was the case above, it is within the scope of this invention to place an adhesive on the exterior of the assembly at this point to assist in providing adherence of the ribbon (206) and inner liner (202) to the outer polymeric coverings (212, 214, 216, and 218) discussed below. The use of adhesives in this step or in that mentioned above depend principally upon the choice of materials in those outer polymeric coverings. (Emphasis added). Col. 12, lines 38-45.

In view of these passages, it is evident that Nita appears only to recite that the outer polymeric coating appears to be melted or flowed (and the shrink-wrap tubing compresses the soft material against the ribbon, and perhaps against the inner insulator), and fails to disclose that the inner and outer insulators are fused together as recited in Applicant's independent Claims 1, 7 and 13.<sup>1</sup>

To further prosecution of this application, the Applicant has amended independent Claims 1 and 7 to recite that the inner insulator (inner means for insulating) and the outer insulator (outer means for insulating) have similar melting points. See, Claims 1 and 7, as amended. Nita fails to disclose that the inner and outer insulator (having a conductor or conducting means wound therebetween) have similar melting points. In fact, Nita disclose that the inner layer has a Tg which is higher than the flow temperature of the material making up the outer layer. Col 17, lines 40-45. Moreover, Applicant respectfully submits that Nita fails to disclose that, during construction of Nita's catheter, the inner insulator 202 is melted or flowed to fuse with the outer insulator. Further, Applicant has amended independent Claim 13 to recite that fusing the inner insulating material to the outer insulating material by heating the inner insulating material and outer insulating material, the inner insulating material and the outer insulating material having similar melting points. See, Claim 13, as amended.

---

<sup>1</sup> Nita generally describes a catheter having a ribbon (or wire) constructed of a variety of different materials. Metallic and non-metallic ribbons, fibrous materials and elastic alloys may be used. Since these types of materials are disclosed by Nita to construct the ribbon, and furthermore, since Nita fails to address or mention electrical stimulation leads or electrodes, Nita only teaches use of a ribbon for mechanical purposes - strength, torqueability, kink resistance and flexibility. Therefore, Nita's fails to disclose Applicant's "conductor". Nita fails to disclose each and every element/feature as arranged as they are in Applicant's claims.

Additionally, with respect to dependent Claims 3, 9 and 18 (and claims dependent thereon), Nita fails to disclose a plurality of conductors, and wherein the inner insulator is fused to the outer insulator to electrically isolate each one of the plurality of conductors (or means for conducting) from one another. Nita fails to disclose this element/feature, while reciting a single ribbon wrapped back upon itself or multiple ribbons that contact each other. See, Figures 2D, 3C, 6-12.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(b) rejection of Claims 1-3, 6-9, 12-14, 16-18 and 20.

III. NEW CLAIMS 21 AND 22

Applicant has added new independent Claims 21 and 22. Applicant respectfully submits that new Claims 21 and 22 are patentable over the art of record requests allowance of such Claims.

IV. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at [rmccutcheon@davismunck.com](mailto:rmccutcheon@davismunck.com).

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date:

4/22/2004



Robert D. McCutcheon  
Registration No. 38,717

P.O. Box 802432  
Dallas, Texas 75380  
(972) 628-3632 (direct dial)  
(972) 628-3600 (main number)  
(972) 628-3616 (fax)  
E-mail: [rmccutcheon@davismunck.com](mailto:rmccutcheon@davismunck.com)